

# Appropriation Law Course

## ALC 0102

Revised 2/13

### **Preliminary Review of Anti-Deficiency Act (ADA) Violations**



# Overview

- ADA Violation Sanctions
- Reporting an ADA Violation
- ADA Preliminary Review
- Preliminary Review Results

# Learning Objectives

31 U.S.C § 1102

# ADA Violation Sanctions

- Administrative Penalties

- Military
- Civilian

1349

31 U.S.C §

1518

- Criminal Penalties

- Fined: NTE \$5,000
- Imprisoned: NTE 2 years
- (Mil) Subject to UCMJ

31 U.S.C §

1350

31 U.S.C §

1519



# ADA Violation Sanctions

- “Good faith” does not relieve responsibility
- Factors may be considered only to determine appropriate level of discipline
  - “Heavy workload at year end”
  - “Past exemplary record”



# Reporting an ADA Violation

- Agency head must formally report ADA violations
  - President of the United States
  - President of the Senate (VP)
  - Speaker of the House
- Suspected ADA violations are handled IAW
  - Reported within 10 working days
    - Through chain of command (CoC)
    - To Under Secretary of Defense (Comptroller)

31 U.S.C §  
1351

DoD FMR Vol 14,  
Ch 3

# Reporting an ADA Violation

- Report must include
  - Accounting classification of funds
  - Name/location of activity in alleged violation (issuing fund Auth)
  - Amount and nature of alleged violation
  - Date of alleged violation
  - Means of discovery
  - Description of facts & circumstances of case
  - Anticipated dates of completion & submission of report
  - POC info for investigator or members of review team

# Reporting an ADA Violation

- Evaluate the potential violation
  - For validity
  - For completeness
  - To determine if a potential violation occurred

# Reporting an ADA Violation

- Preliminary Review initiated by external sources
  - DoD Component may be directed to initiate a Review
  - Considered the “date of discovery”
  - If DoD Component disagrees
    - Provide applicable written comments
    - Resolution between DoD Directive 7650.3



# ADA Preliminary Review

- Gather facts
- Establish whether a reportable violation has occurred

31 U.S.C §  
1341

- “Exceeding”
- “Advance of”

31 U.S.C §  
1342

- Voluntary Services

31 U.S.C §  
1517

- Allotment or Formal Subdivision

# ADA Preliminary Review

- Component's responsibility
  - Assign investigator or team
    - To determine *amount* and *cause*
  - Complete the review within 14 weeks of discovery
- Preliminary Review Focus
  - Potential violation
  - NOT the corrective action
    - Developed during formal investigation



# ADA Preliminary Review

- Preliminary Investigator or Review Team Lead
  - No vested interest in the outcome of the review
  - Capable of conducting an impartial review
  - Trained and qualified individual appointed by
    - Commander of a Major Command (in Chain of Command)
  - From an organization external to the installation-level organization being reviewed
  - Free of personal, external, and organizational impairments

# ADA Preliminary Review

- Check for Accounting Errors
  - Duplicate Obligations
  - Obligations charged to invalid or improper accounts
  - Inaccurate fund status at time of transaction
- If review determines an error has occurred
  - Must be reported to the DoD Component
  - Make the appropriate accounting correction(s)



# ADA Preliminary Review

- Fund Control Personnel are responsible for
  - The proper assignment of funding on a document
  - Examples
    - Resource Managers
    - Fund Holders
    - Funds Certifying Officials
    - Authorizing Officials

# ADA Preliminary Review

- Fund Control Certification
  - If proper funds were available at the time of correction,
    - Potential purpose or time violation may be corrected
  - If certification is not provided,
    - Preliminary Review report shall include evidence to support a determination that a violation has occurred
      - 31 U.S.C § 1341 or 31 U.S.C § 1517

# QUESTIONS ??

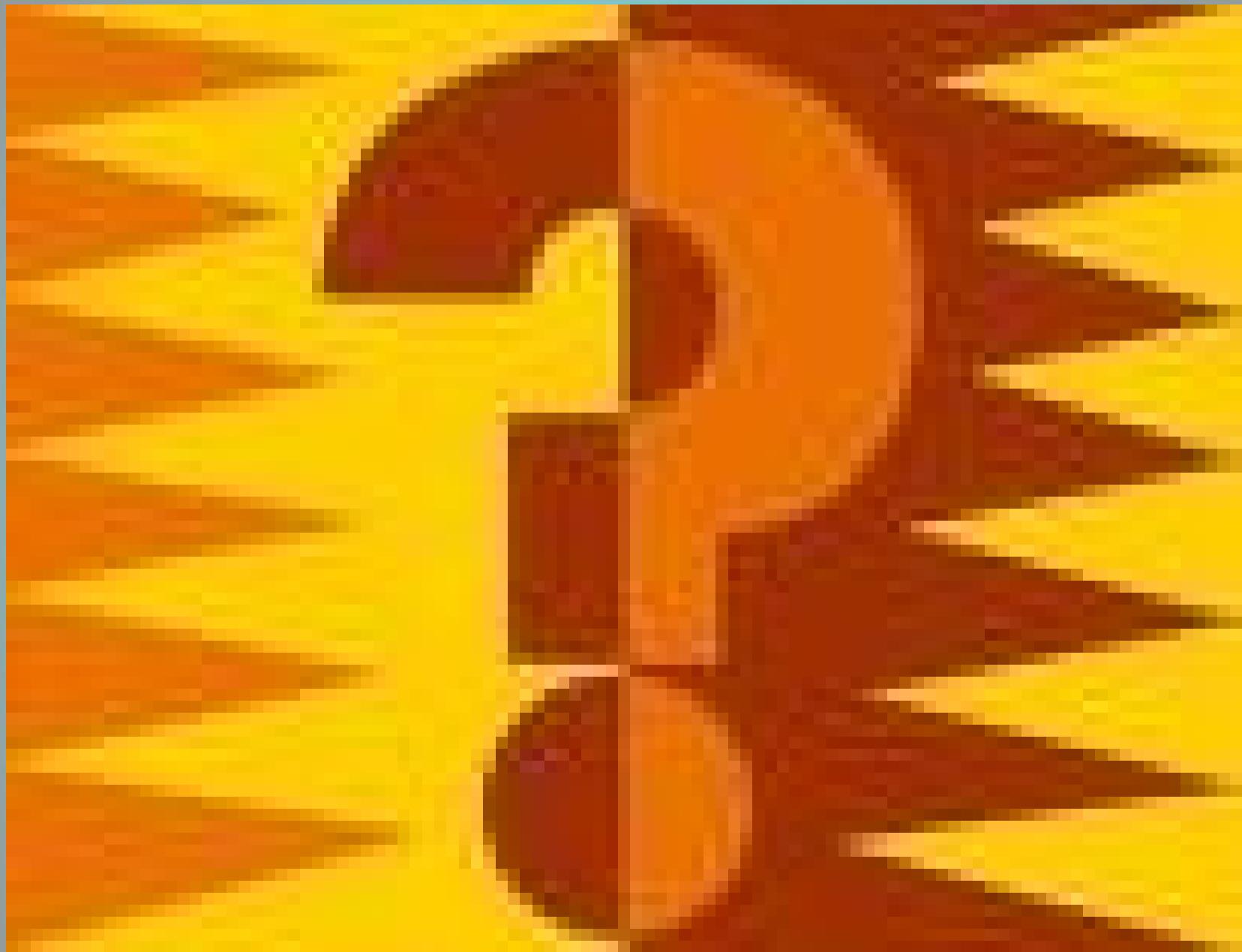


# ADA Preliminary Review Results

- Interpretation and Legal Issues
  - Violation may depend upon interpretation of statutory or regulatory constraints
    - Appropriation
    - Fiscal Year
- In all cases, request and obtain advice of legal counsel
  - Area Counsel is a subject matter expert in civil law
  - Not a Staff Judge Advocate (expert in military justice)

# ADA Preliminary Review Results

- Documented in a Report
- Forwarded for approval to the DoD Component and coordinated with Component Legal Counsel
  - Action complete if both concur that no violation occurred
  - Formal investigation initiated within 2 weeks if the DoD Component determines a violation did occur



# Case Study Demonstration

**GBOSS**  
**EEE**

OK-HUM! WE-KIN-  
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# Practical Application

BOB THE BUILDER

CASE STUDY

# Where can I find ADA Violation information?

View Antideficiency Act Reports - Microsoft Internet Explorer provided by NMCI

File Edit View Favorites Tools Help

View Antideficiency Act Reports

Stay Connected | Share/Save page

Keyword or Report #  Search

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[Submitting Antideficiency Act Reports to GAO](#)

[Antideficiency Act Background](#)

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[Principles of Appropriations Law Training](#)

## View Antideficiency Act Reports

Following are summaries of Antideficiency Act reports for each fiscal year. For more information on individual violations and actions taken, contact the agencies filing the reports.

**ANTIDEFINICENCY REPORT**  
[Antideficiency Act Report Information, Fiscal Year 2011](#)

**ANTIDEFINICENCY REPORT**  
[Antideficiency Act Report Information, Fiscal Year 2010](#)

**ANTIDEFINICENCY REPORT**  
[Antideficiency Act Report Information, Fiscal Year 2009](#)

**ANTIDEFINICENCY REPORT**  
[Antideficiency Act Report Information, Fiscal Year 2008](#)

**ANTIDEFINICENCY REPORT**  
[Antideficiency Act Report Information, Fiscal Year 2007](#)

**ANTIDEFINICENCY REPORT**  
[Antideficiency Act Report Information, Fiscal Year 2006](#)

**ANTIDEFINICENCY REPORT**  
[Antideficiency Act Report Information, Fiscal Year 2005](#)

[Learn more about the Antideficiency Act](#)

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